

**EXHIBIT D**

**Part 1 of 2**

**to**

**Declaration of Andrew Prins**



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# Transcript of Randall Snyder

**Date:** December 18, 2018

**Case:** Hunter, et al. -v- Time Warner Cable Inc.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LEONA HUNTER and ANNE MARIE )  
VILLA, on behalf of themselves )  
and all others similarly )  
situated, )  
Plaintiffs, )  
vs. ) Case No. 1:15-cv-  
TIME WARNER CABLE, INC., ) 06445-JPO-JLC  
Defendant. )

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VIDEOTAPED DEPOSITION OF RANDALL SNYDER

Taken at the Offices of Depo International  
703 South 8th Street  
Las Vegas, Nevada

On Tuesday, December 18, 2018  
At 9:09 a.m.

Reported by: Jane V. Efaw, CCR #601, RPR

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1 after the duration of a call, and then the system  
2 records the call and the data about the call and the  
3 call logs. He indicated that that's exactly what  
4 these call logs represent. But he didn't -- I have  
5 no evidence that it was somehow inaccurate or just  
6 suggestive of that occurring.

7 BY MR. PRINS:

8 Q. So, Mr. Snyder, I'm going to ask you again  
9 because you didn't really answer my question. Is it  
10 your testimony that when you see an attempt status  
11 equal to live voice in the call log, that you can  
12 definitively determine that a prerecorded voice  
13 played on that call?

14 A. Based on the evidence that I have, not that  
15 it played but that a call was initiated using a  
16 prerecorded voice. But most likely it played. And  
17 there are -- we can come up with certain outlying and  
18 hypothetical circumstances where it didn't. But for  
19 the most part, that's exactly what occurred.

20 Q. So your answer is, no, you can't tell  
21 definitively that a prerecorded voice played; is that  
22 correct?

23 MR. ARISOHN: Objection. Mischaracterizes  
24 the witness's testimony.

25 THE WITNESS: Yeah, exactly. No, I think

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1     you can tell definitively, but nothing is 100  
2     percent. So I resist being absolutist about this.  
3     However, in my experience, this type of data is  
4     extremely reliable and accurate.

5             And in some cases, we can, again, come up  
6     with a hypothetical situation where in one call or  
7     another something may have occurred. But for the  
8     most part, it is my opinion that when attempt status  
9     field says live voice, based on the evidence I  
10    reviewed, that prerecorded voice message was played  
11    when that call was initiated.

12    BY MR. PRINS:

13            Q. But there are circumstances where the  
14    attempt status field could -- or would state live  
15    voice and the prerecorded voice would not have  
16    played; is that correct?

17            A. Yeah, I can come up with all kinds of crazy  
18    things. Like somebody dropped their cell phone or  
19    something, and it broke just as the call was  
20    answered, you know. All kinds of, you know, weird  
21    hypotheticals we can come up with. But in my  
22    experience, that's a tiny, tiny percentage of what  
23    these call logs represent.

24            Q. And is it your testimony that when attempt  
25    status is equal to answering machine, that a

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1 prerecorded voice would have played on that call?

2 A. Yes, essentially the same answer as I gave  
3 before. We can always come up with some wild  
4 scenario that something occurred, but for the vast  
5 majority of these calls, that must be accurate, in my  
6 experience and based on the evidence that I reviewed.

7 Q. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A. [REDACTED]

11 Q. Mr. Snyder, what is your current cellular  
12 phone number?

13 A. [REDACTED]

14 Q. And other than the Number [REDACTED], do  
15 you have any other cellular phone numbers?

16 A. No.

17 Q. How long have you had the cellular phone  
18 Number [REDACTED] -- is it [REDACTED]?

19 A. [REDACTED].

20 Q. [REDACTED]?

21 A. Correct.

22 Q. And I'm sorry. Just to be clear. How long  
23 have you used this cellular phone number,  
24 [REDACTED]?

25 A. A very long time. Probably more than 12 or

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1 13 years.

2 Q. And who is your cellular carrier?

3 A. [REDACTED]

4 Q. And for the entire time that you have used  
5 the [REDACTED] number has your carrier been [REDACTED]  
6 [REDACTED]?

7 A. Yes.

8 Q. And other than that [REDACTED] number, do  
9 you use any other cell phones?

10 A. I think you already asked me that.

11 Q. I did, but I messed up the number.

12 A. Okay. So the answer is no.

13 Q. No?

14 A. Yeah.

15 Q. And is the [REDACTED] number connected to  
16 a family plan at [REDACTED]?

17 A. No.

18 Q. Does anyone other than you ever use your  
19 cell phone with the number [REDACTED]?

20 A. That's a broad question. I mean, there have  
21 been individual times over many, many years where  
22 somebody can say, "Can I borrow your cell phone," and  
23 made a call or something. But I'm basically the user  
24 of that number and that cell phone.

25 Q. Is there a spouse or a roommate that

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1 whole commercial business is predicated upon  
2 collection of mass data. And the idea, anyone that  
3 is -- I guess how you would say, is the customer user  
4 of a given telephone number, fills out any form that  
5 could be accessed by Lexus Nexus, whether you're  
6 applying for insurance or credit card or if you give  
7 your phone number to the DMV or if you get arrested,  
8 or any number of places where your phone number is  
9 recorded by some entity, commerce or noncommercial.  
10 And Lexus Nexus access to that. They collect that  
11 mass data. So when you query on a certain piece of  
12 information, they can respond with the data they've  
13 collected in an organized format.

14 Q. So again, what role is the National Change  
15 of Address database playing in your methodology if  
16 Lexus is returning an address associated with what I  
17 think you have called the customer or user of the  
18 phone?

19 A. Yes. The idea is that if the address and  
20 contact information data received, you get dates with  
21 all the stuff, too, of when the data was collected  
22 and when Lexus Nexus is essentially assuring that  
23 this was the correct data on a given date. You can  
24 further, if it's far enough back, if need be, you can  
25 run that data through the National Change of Address



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1 his methodology is reliable and accurate."

2 Did I read that correctly?

3 A. Yes.

4 Q. And you still agree with that today;  
5 correct?

6 A. Yes.

7 Q. You testified earlier that you have not  
8 spoken to Mr. Weir in connection with this case;  
9 correct?

10 A. Correct.

11 Q. How much time did you spend reviewing  
12 Mr. Weir's methodology?

13 A. I don't recall. His report was concise and  
14 clear and very straightforward. It wasn't -- it's  
15 not an overly complex analysis. So I was able to go  
16 through his report a couple times very quickly and  
17 understand which call log records he was looking at,  
18 how he filtered them, calling out unique telephone  
19 numbers, number of calls, and his methodology for  
20 obtaining contact information. So it was very  
21 straightforward, from my perspective, so it didn't  
22 take very long.

23 Q. Would you say you spent more than one hour  
24 or less than one hour?

25 A. Probably between one and two hours, just

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1 looking at it, reviewing it and making sure that I  
2 thought it was correct and accurate and just reading  
3 through it a little more carefully. But again, it  
4 was very straightforward, in my opinion.

5 Q. Other than looking through it to make sure  
6 it was correct and accurate, did you take any other  
7 steps to assess the methodology?

8 A. No. I have a lot of experience in this area  
9 with this precise methodology that's been deemed by  
10 the courts to be reliable and accurate in other  
11 cases. So I just wanted to ensure that -- that he  
12 was looking at the right records. And certainly, he  
13 could have used other data processors besides Lexus  
14 Nexus as well. He chose Lexus Nexus. That's okay.  
15 But I just wanted to make sure that it was correct in  
16 my mind.

17 Q. And you agree with his choice to use Lexus  
18 Nexus?

19 A. Yes. I think he could have easily used the  
20 TransUnion service. They're very competitive, these  
21 data processing companies. They charge a lot of  
22 money. You have access to a lot of data. They're  
23 used by all kinds of industries and organizations to  
24 get correct data. So I have no issue with his choice  
25 of using one over another.

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1 Q. And let's just jump back to page 3 of your  
2 report and the documents reviewed and considered. At  
3 the bottom of page 3, we talked about this earlier.  
4 Documents reviewed and considered. We have the  
5 Second Amended Class Action Complaint, the call log  
6 data, the deposition transcript of David Zitko, the  
7 declaration of Colin Weir and the Telephone Consumer  
8 Protection Act and regulations.

9 And I believe you testified earlier that  
10 this is, in fact, an accurate list of the documents  
11 you considered in connection with this case; is that  
12 correct?

13 A. In connection with this report, yes.

14 Q. And this report was submitted under penalty  
15 of perjury; correct?

16 A. Yes.

17 Q. And so because this is an exclusive list of  
18 documents you considered, is it correct that you did  
19 not look at the file that Mr. Weir sent to Lexus  
20 Nexus?

21 A. No. I didn't look at the actual individual,  
22 analytical steps he took in performing his job.  
23 However, I'm opining on the methodology overall.

24 Q. And just so I understand. So you did not  
25 review the source code that Mr. Weir used in



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1 connection with running your methodology; is that  
2 correct?

3 A. That's correct. I have worked with him in  
4 other cases where I did. This was extremely  
5 straightforward. So I have seen his scripts before  
6 that he uses as input, and I have no reason to  
7 believe that what he did was incorrect.

8 Q. What programming tool did he use to execute  
9 the methodology?

10 A. He uses several. And this is really his  
11 area of expertise, I understand the methodology, but  
12 he's an expert in the nuts and bolts details of doing  
13 the actual numerical data analysis. But he uses some  
14 statistical software. He uses other software that  
15 comes up with similarity scores of data, of comparing  
16 data. So you can -- like I said before, if a name  
17 comes back Bill or William, you can be very sure that  
18 it's probably the same person.

19 So I'm not -- I don't use those tools. He  
20 does. But I know that he does, and he's opined on  
21 those issues before. I think in his report he lists  
22 some of the software he uses.

23 Q. My question, sir, is, what software did he  
24 use in this case?

25 A. I'd have to look at his report.

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1 Q. Is it fair to say you do not know what  
2 software he used in this case?

3 A. Right. I have to reference it. I didn't  
4 use the software, he did. So it's not based on my  
5 direct knowledge of use of the software.

6 Q. But sitting here right now, you can't tell  
7 me what software he used?

8 A. I didn't memorize his report.

9 Q. Did you review the information that he  
10 received back from Lexus Nexus?

11 A. No, I am reviewed his results and summary  
12 information in his report. So his report is his  
13 testimony, that's all I reviewed.

14 Q. What do you mean when you said you reviewed  
15 his results?

16 A. In his report he has tables and numbers and  
17 information that he's testifying to as an expert in  
18 this case.

19 Q. But you did not review the output of his  
20 program after he had done -- applied the methodology;  
21 is that correct?

22 A. No, I did not.

23 Q. And you said you've seen his source code in  
24 other matters; is that correct?

25 A. Yeah, the scripts he writes in order to do

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1 the database analysis and the information he inputs  
2 for these commercial databases. I did not review  
3 that specifically in this case.

4 Q. And do you know whether he has modified any  
5 of -- do you know whether he even used those scripts  
6 in connection with this case?

7 A. No, I don't know.

8 Q. Do you have any personal experience using  
9 Lexus Nexus?

10 A. No.

11 Q. Do you know what Lexus Nexus product  
12 Mr. Weir used?

13 A. They have certain specific services for  
14 contact information, as does TransUnion and some of  
15 the others. I only know, based on my experience and  
16 knowledge, of the data it can produce and the  
17 reliability over many years of experience.

18 Q. So is that to say you do not know what  
19 specific Lexus Nexus products he used?

20 A. No, but it may be listed in his declaration.

21 Q. But you don't know?

22 A. Again, I didn't memorize his declaration.

23 Q. And if you did know it -- strike that.

24 You have not used any Lexus Nexus product in  
25 connection with phone information; is that correct?



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1           A.     Right. That's why -- that's why Colin Weir  
2 is involved in this case. That's his task.

3           Q.     Do you know why Mr. Weir chose Lexus Nexus  
4 over TransUnion?

5           A.     I don't.

6           Q.     Do you know what data sources Lexus Nexus  
7 pulls from to generate its results?

8           A.     Generally, but there must be hundreds and  
9 thousands more than I can name off the top of my  
10 head. They certainly have case studies that they  
11 publish and information that they publish as to where  
12 they obtain the raw source data from public and  
13 private sources.

14                   Some of it is anonymized; some of it is  
15 associated with individuals that they can obtain,  
16 such as credit reports and loan applications, those  
17 types of things. But it's a very large list that I  
18 can't tell you, off the top of my head, all the  
19 items.

20           Q.     But you haven't reviewed any Lexus Nexus  
21 case studies in connection with your report here;  
22 correct?

23           A.     No. And they serve to show the reliability  
24 and the usage of their product, and they've been  
25 successful for many years. It's commercially used by

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1 be associated with an official document.

2 Q. What specific credit reporting agencies does  
3 Lexus purchase data from?

4 A. I can't say. I know for sure, but I would  
5 be surprised if it wasn't from the main three ones.  
6 It's Experian, TransUnion -- there's another one, I  
7 think. I just can't recall off the top of my head.

8 Q. But you have no knowledge and fact of which,  
9 if any, credit reporting bureaus Lexus purchases its  
10 data from; correct?

11 A. I -- again, I would be surprised if they  
12 didn't obtain data from all the sources they could  
13 get data from. I have no reason to believe that for  
14 some reason, one of these credit reporting agencies  
15 did not want to sell them data. That's the business  
16 they're in.

17 Q. But you don't know one way or another  
18 whether Lexus actually purchases data from any credit  
19 reporting agencies; correct?

20 A. Well, they advertise they obtain data from  
21 credit reporting agencies. I guess if they're  
22 misleading the public in their products and services,  
23 but that's one of the main sources of information.

24 Q. So your testimony is that Lexus advertises  
25 in connection with its adverse look-up product, that



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1 it obtains data from credit reporting agencies?

2 A. Yes.

3 Q. Where have you seen that advertisement?

4 A. In many places. I have just been -- I have  
5 looked at their website dozens of times or -- and I  
6 get it that that's kind of marketing material, but I  
7 don't have a reason to believe that they would be  
8 misleading about where their data sources are.

9 They have case studies. They have white  
10 papers on their website, so, in many, many places. I  
11 just didn't feel it. I mean, I could have pulled up  
12 all that data, but it's publically available to  
13 anybody that wants to look it up.

14 Q. Sitting here today, do you know whether  
15 Lexus purchases data from Experian, yes or no?

16 A. Not for sure, but I would be very surprised  
17 if they didn't.

18 Q. Sitting here today, do you know whether  
19 Lexus purchases data from TransUnion, yes or no?

20 A. Same answer. I would be very surprised if  
21 they didn't.

22 Q. So that's a no; correct?

23 A. Yes. And absolute knowledge? No.

24 Q. And I think you mentioned that Lexus might  
25 purchase data from insurance companies; is that

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1 witness's prior testimony.

2 THE WITNESS: Yes. I wouldn't have used the  
3 terminology in such a pejorative way as you did by  
4 repeating back my answer. However, again, this is a  
5 commonly and very popularly used commercial product  
6 that's considered reliable by all the industries that  
7 use it. And if it were not, I don't see how they  
8 would be in business.

9 BY MR. PRINS:

10 Q. Just to clarify the record, are there any  
11 other bases for your opinion that Lexus Nexus is  
12 reliable that you would like to offer right now?

13 A. No.

14 Q. Can you tell me the name of any single  
15 insurance company that Lexus Nexus buys data from?

16 A. They -- they market and advertise that they  
17 get data from the insurance industry. It may -- and  
18 there's many reasons for that. I don't know if they  
19 have confidentiality agreements or they don't want to  
20 list every -- the thousands of companies that they  
21 collect data from. But, no, I don't have absolute  
22 epistemological knowledge of an individual company  
23 that they collect data from.

24 Q. So you do not know a single insurance  
25 company by name that Lexus Nexus purchases data from;

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1 correct?

2 A. By name? No.

3 Q. You mentioned local governments. Do you  
4 know a single local government by name that Lexus  
5 Nexus purchases data from?

6 A. No. They advertise industries. So they  
7 advertise state and local municipal records, arrest  
8 records, DMV records, which is likely across all 50  
9 states. But, again, I doubt that they would attest  
10 to that if it were not true. I have no reason to  
11 believe that their assertions are not true.

12 Q. Is it your testimony, based on what you just  
13 said, that Lexus -- strike that.

14 Is it your testimony that the Lexus Nexus  
15 phone product at issue here, as used by Mr. Weir,  
16 relies on arrest records.

17 A. It doesn't rely on. I understand that the  
18 mass data that Lexus Nexus connects -- collects goes  
19 into its product and you simply request information  
20 and provide you a result. There's no way to  
21 determine the source, necessarily, of that result  
22 based on the product you purchase from Lexus Nexus.  
23 So you get a result of address and names, but it  
24 doesn't say we got this name here, we got this name  
25 there, we got this name there, we got this address



1 there. That's not a service they offer.

2 Q. Can you tell me a single county or city that  
3 Lexus uses arrest records from in connection with its  
4 phone reverse look-up product?

5 A. No. And actually, it's a misnomer, I think,  
6 to call it a phone reverse look-up product. If you  
7 -- many people commonly do get on the web and type in  
8 reverse look up and there's hundreds, if not  
9 thousands of very unreliable bad data services called  
10 reverse look-up phone services. That's surely not  
11 what this is.

12 It may be a similar product name. However,  
13 the idea is that this is mass data collected from  
14 reliable sources over many years and over a lot of  
15 time. And my experience has been it's very reliable.

16 And again, in the industry, in the  
17 telecommunications industry -- and I use these in  
18 other products outside of the legal realm, where we  
19 needed to look up or look at reverse phone  
20 directories that were available commercially.

21 They're generally highly unreliable because  
22 they're not based on collecting mass data from  
23 hundreds of thousands of sources. It's based on old  
24 data that can be gleaned from old Yellow Pages or old  
25 White Pages in certain cities and municipalities.

1           So I look at this as not as just a simple  
2     reverse phone lookup. This is an actual programmatic  
3     operation, where Lexus Nexus, as a data processing  
4     company, provides very valuable data. It's very  
5     reliable from data sources, unlike the commonly known  
6     average reverse lookup that you could type into a  
7     Google search and obtain potentially information for  
8     1995, and a number or something like that. Those are  
9     all very unreliable.

10          Q.    So it's a fair point, Mr. Snyder, and I just  
11     want to make sure we have a common terminology,  
12     because I'm not trying to trip you up by sneaking in  
13     a reverse lookup or anything like that. So going  
14     forward, I'm going to refer to the Lexus Nexus  
15     product used by Mr. Weir, and we would have a common  
16     understanding about what that project -- what I'm  
17     referring to; correct?

18          A.    Yes, thank you.

19          Q.    And your answers before about the Lexus  
20     Nexus phone product, as I was calling it, you were  
21     referring to the Lexus Nexus product used by  
22     Mr. Weir; correct?

23          A.    Yes.

24          Q.    So circling back to the arrest records, can  
25     you tell me, sitting here today, a single

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1 municipality or other government entity that the  
2 Lexus Nexus product used by Mr. Weir pulls from or  
3 has access to.

4 A. Sitting here today, no.

5 Q. Other than credit reporting agencies,  
6 insurance companies, local governments, is there any  
7 other group or industry that, sitting here today, you  
8 know for a fact that the Lexus Nexus -- the Lexus  
9 Nexus product used by Mr. Weir relied upon?

10 A. No. Again, I'm not an expert in the Lexus  
11 Nexus data collection side of their business.  
12 They're B to B business that they don't sell  
13 commercially, but where they obtain the data from.  
14 My opinions are purely based on the usage of their  
15 services and the data they can provide commercially  
16 for the information that someone like Mr. Weir is  
17 trying to obtain.

18 Q. So your answer is that you cannot provide  
19 another industry or general group of entities that --

20 A. That's right. But, you know, on my next  
21 break, I can certainly do the research and give you  
22 names of dozens.

23 Q. But you didn't do that research in  
24 connection with your report, correct, because I don't  
25 see any Lexus website listed on your document.



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1     there, for some reason, is a lack of confidence in  
2     using one of these data processors, you can use  
3     another or use several and cross-reference the data  
4     you get from that to get a reliable result.

5             So my opinion really is that this can be  
6     done and this is the overall methodology and here's  
7     how it works. The fact of whether one data processor  
8     we use, or more, has to do with the results we get.  
9     And if the results look spurious, for some reason,  
10    over a large mass of data, you might run it again  
11    through another data processor.

12            Q.    But you've already testified earlier that  
13    you have no reason to question results already  
14    obtained in this case; correct?

15            A.    That's right. That's right. Because I saw  
16    Colin Weir's report and he indicated there wasn't  
17    much of a problem and -- or a problem at all. And  
18    I'm just -- I'm opining again on the methodology  
19    that, in my experience, is reliable.

20            Q.    And the methodology as used by Colin Weir  
21    that you are opining on, is that Lexus is reliable  
22    for this --

23            A.    Right. And that's a subset of the overall  
24    opinion I'm providing in this case.

25            Q.    Uh-huh.

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1 majority of the data was not reliable, I would  
2 certainly -- I believe I certainly would know about  
3 it, especially in cases like the one we're here  
4 talking about today.

5 Q. But you've done no analysis yourself to  
6 determine the error rate of the Lexus data; correct?

7 A. No. And it's just like, you know, if you  
8 buy a car, maybe J.D. Power tells you, you know, how  
9 many complaints there have been in the first month of  
10 each model of car. You know, people believe that.  
11 They trust it. I believe that J.D. Power is not  
12 lying. But I don't believe I have to perform an  
13 independent analysis of that, unless it's required,  
14 and if plaintiff's counsel asks to do the research.  
15 Certainly, I could probably could do it or someone  
16 else could do the research and determine the range of  
17 numbers of reliability of that data.

18 Q. But you haven't done that analysis today?

19 A. I haven't done that, no.

20 Q. I think you mentioned J.D. Power &  
21 Associates, and I believe you were trying to draw an  
22 analogy to a third-party authoritative source from  
23 which you could rely on, their opinion of  
24 reliability. Was that the analogy --

25 A. Yes.



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1 and number crunching and can testify to that  
2 reliability as well.

3 Q. What is your understanding of the term  
4 "customary user" as used in your report?

5 A. The -- I'm not trying to -- I know there's  
6 an issue that's been a going around TCPA industry for  
7 years of what the called party is and what that  
8 means. We're talking about the person generally  
9 associated with the telephone number. When you call  
10 that number, that's the person you're intending to  
11 call. So it's the person that uses that number. The  
12 subscription may not be in their name, but it's  
13 basically the person that uses that number, just as  
14 we all here today can provide our phone numbers as  
15 our phone numbers. So we're associated with that  
16 number.

17 Q. So would it be fair to say -- and I want you  
18 to tell me if it's not -- that when you use the  
19 phrase "customary user" in your report, you're  
20 referring to the primary user of a phone number?

21 A. Yes, and I'll be candid. I've been in lots  
22 of depositions and lots of rebuttal reports over this  
23 issue, and, you know, the opposing counsel or the  
24 opposing side makes an argument that, well, how do  
25 you know if you let somebody borrow your phone to

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1 you, that's how they would do it. I'm not talking  
2 about any business relationships or legal  
3 relationships or anything like that. It's the person  
4 that publicly and privately associates themselves  
5 with that phone number.

6 Q. And based upon your years of experience in  
7 TCPA cases and in the telecom industry, are there  
8 situations in where there are multiple customary  
9 users of a phone number, as you are using that term  
10 in your report?

11 A. Not that are not exceptions. There are  
12 great exceptions. I just have never seen that. I  
13 can think of hypotheticals where a parent gives two  
14 12 years olds one phone to share or something like  
15 that. But then there's always confusion. And that's  
16 just a hypothetical.

17 In my experience, telephone numbers are  
18 widely used to associate with individuals. In fact,  
19 it's used in authentication all the time, you know,  
20 when you try and log in to your website at your bank  
21 and they want to send you a text message, and you put  
22 the code in, right? They are sending that number to  
23 the user that put his number down when they got the  
24 account. So that's the user. Right?

25 Those services wouldn't work if there were

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1 multiple -- it was a common thing, that multiple  
2 people gave out the same phone number for themselves  
3 all the time. In my experience, that's a very, very  
4 tiny -- I'm sure it occurs, but a very tiny  
5 percentage of the time.

6 Q. Can you put an estimate on the percentage of  
7 time that occurs?

8 A. Very small. I would be speculating. All I  
9 could say is very small. And I think that most  
10 people in this industry will give you a similar  
11 answer. These are not statistics that are kept.

12 But, again, if it was a common occurrence,  
13 that multiple people were giving out the same phone  
14 number and registering with websites and doing your  
15 online banking and all the other things we use our  
16 phone numbers for, we're giving out the same number,  
17 it would be extremely problematic in the industry, no  
18 companies would use it for authentication.

19 Nobody, when they were trying to reach you,  
20 would know whether they were actually calling you or  
21 not. Whose voicemail do you have associated with it.  
22 It's just a myriad of problems that people don't seem  
23 to have today, and the reason they don't have them is  
24 because that situation doesn't occur.

25 Q. Would you say the situation of multiple



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1 customary users being associated with a phone occurs  
2 in less than 1 percent of instances?

3 A. I'd be guessing. But I'd be surprised if it  
4 was more than that. But it's just a guess. I don't  
5 have any authoritative source for that except  
6 personal experience.

7 Q. And in the situation of, let's say, a home  
8 phone in a household, is it your opinion that there  
9 would still be only a single customary user  
10 associated with that home phone, or would there be  
11 multiple customary users associated with that home  
12 phone?

13 A. There might be multiple. But the idea is if  
14 somebody that uses that phone number put their own  
15 name and that phone number down on some -- somewhere,  
16 that was information collected by the data processors  
17 like Lexus Nexus, they have a reasonable means of  
18 determining or providing to others that this  
19 association exists between this phone number and this  
20 person.

21 So the idea is that, oh, if I get a new  
22 cable service or a new electronic service or I moved,  
23 and I put my own phone number down, I put my cell  
24 phone number down, I put my name down, those  
25 utilities are also industries that provide data.

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1           When you request that data back, you're  
2           still reasonably assured that that person's  
3           associated with that phone number. Again, landline  
4           numbers aren't used for authentication, you know, for  
5           electronic communications, that kind of thing.  
6           And landline --

7           MR. ARISOHN: Ojbection.

8           THE WITNESS: Yeah.

9           MR. ARISOHN: Sorry. Go ahead.

10          THE WITNESS: And landline numbers are  
11          becoming -- used less and less today, although  
12          usually in cases like this, they are 50 percent or  
13          more of the calls made when you analyze the numbers.  
14          I'm not sure if that was done in this case.

15          MR. ARISOHN: Can we take a quick break when  
16          it's convenient?

17          THE WITNESS: Yes.

18          MR. PRINS: How much longer do we have on  
19          the video? We're going to run out of video in about  
20          ten minutes, Josh. Does that work for you?

21          MR. ARISOHN: Okay. Maybe five minutes?

22          MR. PRINS: Sure. Five minutes is fine.

23          THE WITNESS: But my point is that -- the  
24          idea is that a name that's associated with a phone  
25          number doesn't -- is based on what people represent

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1 you have with customers that sign up on the web, for  
2 instance, for a service and they accidentally  
3 transpose a digit or they're typing too fast. And  
4 now there's a wrong number -- I'm sorry -- associated  
5 with that name. And that's why systems like Early  
6 Warning exist, so you can see if that phone is  
7 disconnected or associated with a certain date or why  
8 these Lexus Nexus services exist, so you can  
9 cross-reference that data. But it does happen, but  
10 that's -- again, that's a small percentage.

11 Q. And if a company was trying to avoid calling  
12 reassigned numbers, for example, would relying on a  
13 source of data that was tracking disconnects be sort  
14 of a reasonable method to employ?

15 A. Yes.

16 Q. Do you know any other services other than --  
17 I'm sorry, I don't remember the one you worked with,  
18 something.com.

19 A. Early Warning.

20 Q. Other than earlywarning.com, do you know of  
21 any other providers of information about disconnects?

22 A. Yeah, there's one other. I don't recall the  
23 name off the top of my head. I just know Early  
24 Warning, because I've worked with them personally  
25 over the last few years.